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10   IN THE UNITED STATES DISTRICT COURT

11   FOR THE NORTHERN DISTRICT OF CALIFORNIA

12   SAN FRANCISCO DIVISION

13
    DAVID MONTIEL CRUZ,   C 07-4329 JSW (PR)
14
                                   Petitioner,
15
            v.
16
    RICHARD SUBIO, Warden,
17
                                   Respondent.
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19
        DECLARATION OF COUNSEL IN SUPPORT OF RESPONDENT'S EX PARTE
20   **APPLICATION FOR FIRST EXTENSION OF TIME**

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    DAVID MONTIEL CRUZ,   C 07-4329 JSW (PR)
14
                              Petitioner,
15   **DECLARATION OF**
                                               COUNSEL IN SUPPORT OF
        v.   **RESPONDENT'S EX PARTE**
16   **APPLICATION FOR FIRST**
    RICHARD SUBIO, Warden,   **EXTENSION OF TIME**
17
                              Respondent.
18

19   I, Joan Killeen, declare under penalty of perjury that:

20   I am a Deputy Attorney General of the State of California and am admitted to practice law

21 in this state and before this Court. I have been assigned to represent respondent and to prepare the

22 answer in this case. Respondent has made no previous request for an extension of time.

23   On January 8, 2008, this Court issued an Order to Show Cause, directing respondent to

24 file an answer to the petition for writ of habeas corpus within sixty days.

25   I request an additional sixty days from the present due date to prepare and file the answer.

26 This request is not made for the purpose of delay. In the past sixty days, I filed the answer to the

27 petition for writ of habeas corpus in *Beloney v. Evans*, C 07-4649 WHA (PR), a motion to dismiss

28

    Declaration Of Counsel In Support Of Respondent's Ex Parte Application For First Extension Of Time - C 07-4329 JSW
    (PR)

1   the petition for writ of habeas corpus in *In re Bryant Davis*, C 07-3232 JF, and the respondent's

2   briefs in *People v. Gutierrez*, H030947, and *People v. Earle*, H031525. I am currently working on

3   the respondent's brief in *People v. Gutierrez, et al.,* A115684, a multi-defendant case with a

4   reporter's transcript over 1500 pages long and a clerk's transcript over 2700 pages long, in which

5   three appellant's briefs have been filed raising numerous claims. In addition, I have to file the

6   respondent's briefs in *People v. Grobman*, H032158, *People v. Jasmin*, A118151, and *People v.*

7   *Luna*, H031666, before beginning work on the answer in this case.

8   Petitioner raises nine claims for relief in connection with his 2005 convictions for

9   burglary, lewd and lascivious acts on a child by force during the commission of a burglary and

10 kidnapping, kidnapping a child under 14 years, assault by means of force likely to produce great

11 bodily injury and with use of a deadly weapon, inflicting pain or suffering on a child with use of a

12 deadly weapon, and sexual penetration by force during the commission of a kidnapping.   The

13 reporter's transcript of the trial is over 2,300 pages long and the clerk's transcript is approximately

14 680 pages long.

15   In light of my current work load, the number of claims raised by petitioner, and the

16 necessity of reviewing the lengthy trial record to address those claims, I will be unable to prepare

17 and file the answer by the current due date.

18   I have not contacted petitioner in this case because he is a state prisoner proceeding pro

19 se.

20   Executed on March 7, 2008, at San Francisco, California.

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22   /s/ Joan Killeen
                             JOAN KILLEEN
23   Deputy Attorney General

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Declaration Of Counsel In Support Of Respondent's Ex Parte Application For First Extension Of Time - C 07-4329 JSW
(PR)

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